



**Texas Department of Insurance, Division of Workers' Compensation**  
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

## MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

### PART I: GENERAL INFORMATION

**Type of Requestor:** (X) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier

Requestor's Name and Address:

The Clinic for Special Surgery  
900 12<sup>th</sup> Avenue  
Fort Worth, TX 76104

MDR Tracking No.: M4-04-0693-01

Claim No.:

Injured Employee's Name:

Respondent's Name and Address:  
Transcontinental Insurance Company  
Burns, Anderson, Jury & Brenner  
Box 47

Date of Injury:

Employer's Name: Beaulieu Refrigeration Inc.

Insurance Carrier's No.: 64815423

### PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Not paid at usual and customary as ordered 6/18/03 when final judgement was entered in cause GN202229 in District Court of Travis County, 98<sup>th</sup> Judicial District.

- Principle Documentation:
1. Table of Disputed Services
  2. Introductory Letter for MDR for inadequate payment of ASC's
  3. UB-92
  4. Operative Report
  5. EOB

### PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

...Provider has the burden of proof in this case. As stated by the MRD in prior ASC disputes, regardless of the carrier's application of its methodology, lack of methodology, or response, the burden is on the provider to show that the amount of reimbursement requested is fair and reasonable...

- Principle Documentation:
1. Statement of Disputed Issues
  2. EOBs
  3. CMS-Pub. 60AB
  4. Nevada Fee Schedule
  5. 114 CMR
  6. Pennsylvania Administrative Code
  7. SOAH decisions

### PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Part V Reference	Additional Amount Due (if any)
09/25/02	Ambulatory Surgery	1	\$735.00

### PART V: MEDICAL DISPUTE RESOLUTION REVIEW SUMMARY, METHODOLOGY, AND/OR EXPLANATION

1. This dispute relates to services provided in an Ambulatory Surgical Center that are not covered under a fee guideline for this date of service. Accordingly, the reimbursement determined through this dispute resolution process must reflect a fair and reasonable rate as directed by Commission Rule 134.1. This case involves a factual dispute about what is a fair and reasonable reimbursement for the services provided.

After reviewing the documentation provided by both parties, it appears that neither party has provided convincing documentation that sufficiently discusses, demonstrates, and justifies that their purported amount is a fair and reasonable reimbursement (Rule 133.307). After reviewing the services, the charges, and both parties' positions, it is clearly evident that some other amount represents the fair and reasonable reimbursement.

During the rule development process for facility guidelines, the Commission contracted with Ingenix, a professional firm specializing in

actuarial and health care information services, in order to secure data and information on reimbursement for medical services provided in an ambulatory surgical facility. The result is a reimbursement range for workers' compensation services not covered under a fee guideline. In addition, both ASCs and insurance carriers provided information in the recent rule revision process which was considered in order to find data related to commercial market payments for the services. The information provides a benchmark for determining the "fair and reasonable" reimbursement amount for the services disputed in this case.

To determine the amount due for this particular dispute, staff compared the procedures in this case to the amounts within the reimbursement range recommended by the Ingenix study (from 173.9% to 226.5% of Medicare for the year 2002). Also staff considered the other information submitted by the parties and the issues related to the specific procedures performed in this dispute. Based on this review, staff selected a reimbursement amount in the lower end of the Ingenix range. The total amount was then presented to a staff team with health care provider billing and insurance adjusting experience. This team considered the recommended amount, discussed the facts of the individual case, and selected the appropriate "fair and reasonable" amount to be ordered in the final decision.

Therefore, based on the facts of this situation, the parties' positions, the Ingenix range for applicable procedures, and the consensus of other experienced staff members in Medical Review, we find that the fair and reasonable reimbursement amount for these services is \$1730.00. Since the insurance carrier previously paid a total of \$900.00, the health care provider is entitled to an additional reimbursement in the amount of \$735.00.

#### **PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION**

28 Texas Administrative Code Sec. 134.1 and 133.307

#### **PART VII: DIVISION DECISION AND ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code, Sec. 413.031, the Division has determined that the requestor is entitled to additional reimbursement in the amount of \$735.00. The Division hereby **ORDERS** the insurance carrier to remit this amount plus all accrued interest due at the time of payment to the Requestor within 30-days of receipt of this Order.

Ordered by:

Marguerite Foster

September 15, 2005

Authorized Signature

Typed Name

Date of Order

#### **PART VIII: YOUR RIGHT TO REQUEST JUDICIAL REVIEW**

Appeals of medical dispute resolution decisions and orders are procedurally made directly to a district court in Travis County [see Texas Labor Code, Sec. 413.031(k), as amended and effective Sept. 1, 2005]. An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable. The Division is not considered a party to the appeal.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**